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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,672	07/27/2006	Erhard Hoffmann	3744	8467
7590 Striker, Striker & Stenby 103 East Neck Road Huntington, NY 11743	09/25/2008		EXAMINER AKANBI, ISIAKA O	
			ART UNIT 2886	PAPER NUMBER PAPER
			MAIL DATE 09/25/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,672	Applicant(s) HOFFMANN ET AL.
	Examiner ISIAKA O. AKANBI	Art Unit 2886

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 July 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 27 July 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449)
 Paper No(s)/Mail Date 27 July 2006

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Preliminary Amendment

The preliminary amendment filed on 27 July 2006 has been entered into this application.

Information Disclosure Statement

The information disclosure statement filed on 27 July 2006 has been entered and considered by the examiner.

Drawings

The drawings filed on 27 July 2006, has been accepted for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyahara (5,055,666).

Regarding claim 1, Miyahara discloses a device for positioning markings comprising:

having a first equipment unit (**fig. 1: 10**), having means (**fig. 1: 13**) for disposing the first equipment unit (**fig. 1: 10**) at a predeterminable first position (i.e. location where b1 originated from) of a reference face, and

having optical signal means (**fig. 1: 11, b1**) for generating directional information (**fig. 1: s_x and s_y**), characterized in that the device has a second equipment unit (**fig. 1: 12, 20, 21 and 22**), which is positionable relative to the first equipment unit (**fig. 1: 10**) and which has means (**fig. 1: 11, b1**), which make it possible to ascertain the spacing of the second equipment unit (**fig. 1: 12, 20, 21 and 22**) from the first equipment unit (**fig. 1: 10**) in the direction (**fig. 1: s_x and s_y**) predetermined by the first equipment unit (**fig. 1: 10**)**(col. 2, lines 19-40)(col. 2, lines 63-col. 4, line 18)**.

As to claim 2, Miyahara also discloses a device which is characterized by determining means (**fig. 1: 11, b1, 21, 22, 12**) that include an optical measuring system.

As to claim 3, Miyahara also discloses a device which is characterized by optical measuring system for determining spacing (fig. 1: Lm) includes optical signal means (**fig. 1: 11, b1, 21, 22, 12**) of the first equipment unit (**fig. 1: 10**).

As to claim 4, Miyahara also discloses a device which is characterized by optical measuring system for determining spacing that includes at least one light-sensitive sensor (**fig. 1: 12, 21, 22**).

As to claim 5, Miyahara also discloses optical signal means (**fig. 1: 10**) include at least one laser (**fig. 1: 11**).

As to claim 6, Miyahara also discloses a device which is characterized by first equipment unit (**fig. 1: 10**) that has means (**fig. 1: 14, 30**) which make it possible to

level the optical signal means (**fig. 1: 11, b1**), for generating directional information (ΔL , θh , θv , s_x and s_y) relative to the reference face (**col. 3, lines 3-col. 4, 18**).

As to claim 7, Miyahara further discloses a device that is automatic (**col. 1, lines 8-15**)(**col. 1, lines 56-62**), and thus meet the limitation a device which is characterized in that the optical signal means are self-leveling.

As to claims 8 and 9, Miyahara also discloses a device which is characterized by spacing determining means (**fig. 1: 16, 20, 21, 22**) that include a mechanical measuring system and includes a travel pickup connected to the second equipment unit (**col. 4, lines 3-68**).

As to claim 10, Miyahara also discloses a device that uses radiation to detect and locate distance objects (**figs. 1-3**) which is a radar measuring system.

As to claim 11, Miyahara also discloses a display unit (**fig. 1: 32**) which allow/permit it to reproduce the spacing value of the second equipment unit from the first equipment unit

As to claim 12, Miyahara also discloses a device which is characterized by the second equipment unit (**fig. 1: 20**) has marking means (**fig. 1: 23**), which make it possible to mark a second position on the reference face which corresponds to the ascertained spacing from the predeterminable first position in the direction predetermined by the first equipment unit (**fig. 1: 10**)**(col. 3, lines 42-col. 4, line 2)**.

Additional Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed in the attached form PTO-892 teach of other prior art device for positioning markings.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isiaka Akanbi whose telephone number is (571) 272-8658. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur R. Chowdhury can be reached on (571) 272-2287. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hwa S. Lee (Andrew)/

Primary Examiner, Art Unit 2886

Isiaka Akanbi

August 16, 2008